

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAMES WILLIAMS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JAMES WILLIAMS,

Respondent-Appellant.

UNPUBLISHED

May 28, 2009

No. 289121

Wayne Circuit Court

Family Division

LC No. 08-478060

Before: Jansen, P.J., and Hoekstra and Markey, JJ.

MEMORANDUM.

Respondent appeals by right the family court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(g) and (h).¹ We affirm.

The trial court did not clearly err by finding at least one statutory ground for termination of respondent's parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent failed to provide proper care and custody for the child as he has provided no support for the child and lost contact with him after his incarceration in 2000. In the two-year period during which he was a part of the child's life, respondent engaged in substance abuse with alcohol and cocaine and committed arson. He was incarcerated and unavailable to the child from 2000 to the present. The evidence also amply established that there was no reasonable expectation that respondent would be able to provide proper care and custody for the minor child within a reasonable time considering the child's age. Respondent was serving a sentence of incarceration for a minimum of nine and a maximum of 20 years, with an earliest release date of November 11, 2009. Respondent admitted having at least seven and possibly as many as 15 major misconduct citations during his current incarceration and repeatedly absconding while on parole. Thus, it appears doubtful that respondent would be released on the earliest release date. Even under the earliest release scenario, respondent would not be in a position to care for the child for 18 months to two years or longer: His earliest possible release is over one year from the date of the order terminating

¹ The mother of the minor child is deceased.

parental rights, and upon release, respondent must complete a parent-agency agreement that would take from six months to a year or longer. Considering the uncertainty that respondent will either be released early or speedily rehabilitated after release, the trial court did not clearly err by finding that 18 months to two years or longer was not a reasonable time considering the child's age and that because of respondent's incarceration, the child would be deprived of a normal home for longer than two years. *In re Perry*, 193 Mich App 648, 650-651; 484 NW2d 768 (1992).

Finally, the trial court did not clearly err by finding that termination was in the best interests of the child. MCL 712A.19b(5). Respondent had not seen the ten-year-old child since he was two, and there was no evidence whatsoever to suggest that respondent would be able to care for the child within a reasonable time. The trial court expressed its concern that permanency be established for the child, and we agree that termination of respondent's parental rights would serve the best interests of the child by allowing him a chance to secure permanency and stability.

We affirm.

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra

/s/ Jane E. Markey